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|-------------------------------------|---|----------|
| In re Application of | : | |
| BERGQUIST, Leonard et al. | : | |
| Application No.: 10/530,314 | : | |
| PCT No.: PCT/AU03/01314 | : | |
| Int. Filing Date: 07 October 2003 | : | DECISION |
| Priority Date: 04 October 2002 | : | |
| Attorney's Docket No.: ALAR4.001APC | : | |
| For: Random Drift Mutagenesis | : | |

This communication is issued in response to applicants' "Response To Notification of Defective Response" submitted on 02 March 2007. Applicants' submission has been treated as a petition under 37 CFR 1.81 requesting that the Notification of Defective Response (Form PCT/DO/EO/916), mailed 02 February 2007, be withdrawn. No petition fee is due.

BACKGROUND

On 07 October 2003, applicant filed international application PCT/AU03/01314, claiming a priority date of 04 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 April 2005.

On 04 April 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 11 September 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 08 December 2006, applicants filed a response to the Notification of Missing Requirements including, an executed declaration of the inventors, surcharge for late filing of the oath or declaration and a one-month extension fee.

On 02 February 2007, the Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed on 08 December 2006 fails to comply with 37 CFR 1.497(a)-(b) because "the inventors need to be listed on the same page."

On 02 March 2007, applicants submitted the instant "Response To Notification of Defective Response" indicating that, "nowhere did 37 CFR 1.497(a) or (b) that multiple inventors must be listed on the same page of the oath or Declaration." Applicants then requested that the Notification of Defective Response (Form PCT/DO/EO/916) mailed 02 February 2007 be withdrawn.

DISCUSSION

A review of 37 CFR 1.497(a)-(b) indicates that applicants are correct in their position. Specifically, 37 CFR 1.497(a)-(b) does not require multiple inventors to be listed on the same page of the oath or Declaration. Therefore, the declaration filed on 08 December 2006 complies with 37 CFR 1.497 (a)-(b) and the Notification of Defective Response (Form PCT/DO/EO/916) mailed 02 February 2007 is withdrawn.

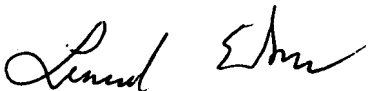
CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

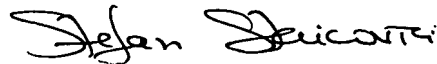
A Notification of Acceptance (Form PCT/DO/EO/903) will be mailed and the application will be given a date of 08 December 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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